



The Mysore Gazette.

Vol 58.]

PUBLISHED BY AUTHORITY.

[No. 39.

BANGALORE, THURSDAY, SEPTEMBER 27, 1923.

PART III.

Legislative Measures, and Rules thereunder.

NOTIFICATION.

Notification No. 126—L. C., dated 25th September 1923.

Under Rule 32 of the Rules for the conduct of business of the Mysore Legislative Council, the accompanying Mysore Irrigation Bill is published for general information with the statement of objects and reasons:

By Order,

C. ABDUL GHANI,

Secretary, Mysore Legislative Council.

The Mysore Irrigation Bill.

WHEREAS it is expedient to consolidate and amend the law relating to Irrigation; His Highness the Maharaja is pleased to enact as follows:—

CHAPTER I.

PRELIMINARY.

(1) This Regulation may be called the Mysore Irrigation Regulation.

(2) It extends to the whole of Mysore.

2. In Section 53 of the Mysore Land Revenue Code, Regulation IV of 1888, after the words "or which has been made available in consequence of the construction, improvement or repair of any irrigational or other work by Government or by a private person acting under the written authority of Government," the words "and in respect of which no rate is leviable under the Mysore Irrigation Regulation" shall be added.

In Section 3 (2) of the said code, the words "or under the Mysore Irrigation Regulation" shall be inserted after the figure 53; and to section 114 of the said code, the words "or of the Mysore Irrigation Regulation" shall be added.

3. In this Regulation unless there is anything repugnant in the subject or context:

(1) "Irrigation work" includes

(a) All reservoirs, tanks, canals, channels and pipes constructed, maintained or controlled wholly or mainly by Government for the supply or storage of water;

(b) All works, embankments, structures, supply and escape channels, connected with such reservoirs, tanks, canals, channels or pipes and all roads constructed for the use of facilitating the construction or maintenance of such works, channels, tanks, pipes or reservoirs;

(c) All water courses and drainage works as hereinafter defined;

(d) All lands occupied by the Government for the purposes of such canals, channels, tanks, pipes, reservoirs, and all buildings, machinery, fences, gates and other erection occupied by or belonging to the Government upon such lands.

(2) "Water Course" means any channel or pipe which is supplied with water from an irrigation work but which is not maintained at the cost of Government and all subsidiary works connected with any such channel or pipe except the sluice or outlet through which water is supplied to such channel or pipe.

(3) "Drainage work" includes channels either natural or artificial for the discharge of waste or surplus water and all works connected with or auxiliary to such channels and escape channels from an irrigation work, dams, weirs, embankments, sluices, groins and all works for the protection of lands from flood or from erosion formed or maintained by the Government either wholly or in part, but does not include work for the removal of sewage.

(4) "Deputy Commissioner" includes any Officer appointed by Government to exercise all or any of the powers of Deputy Commissioner under this Regulation.

(5) "Irrigation Officer" includes any person appointed by Government to exercise all or any of the functions of an Irrigation Officer under this Regulation.

(6) "Owner" includes every person having a joint interest in the ownership of the thing specified and all rights and obligations which attach to an owner under the provisions of this Regulation and shall attach jointly and severally to every person having such joint interest in the ownership.

4. Government, or subject to such rules as may be made under this Regulation, any Officer whom Government empowers in this behalf, may declare by notification the officers by whom and the local limits within which all or any of the powers or duties hereinafter conferred or imposed shall be exercised or performed.

(a) The right to all water flowing or standing which is not the property of private individuals, the burden of proving which will be on them, shall vest in Government; and no person shall make use of such water for irrigation or other purposes by damming up or otherwise

interfering with any stream or nala or natural water-course whether it is defined in the village map or not, except with the permission of the Deputy Commissioner or an irrigation or other officer specially authorised by Government in this behalf.

CHAPTER II.

OF THE CONTROL OF WATER AND OF IRRIGATION WORKS.

5. Any Irrigation Officer duly empowered in this behalf and any person acting under general or special order of such irrigation officer may enter upon any land, building or water-course for the purpose of inspecting or regulating the use of water, of measuring the land irrigated thereby and of doing all things necessary for the proper regulation, maintenance and management of any irrigation or drainage work.

6. In case of any accident happening or being apprehended to any irrigation or drainage work, or in case of any urgency, any Irrigation Officer and any person acting under his general or special orders in this behalf, may at any time enter upon any lands adjacent to or in the neighbourhood of any irrigation or any drainage work and may repair any existing work, construct any new work or take and utilise any material and take any measures or do anything that may in his opinion be necessary to prevent such accident or to save loss or damage to any property or to repair any damage done.

7. When an Irrigation Officer proposes, under the provision of the two last preceding sections to enter into any building or enclosed court or garden attached to a dwelling house into which the water does not flow from any irrigation work, he shall previously give to the occupier of such building, court or garden such reasonable notice as the urgency of the case may allow.

8. Suitable means of crossing the irrigation work shall be provided at such places as Government thinks necessary for the reasonable convenience of the inhabitants of the adjacent land and suitable bridges, culverts, or other works shall be constructed to prevent the drainage of the adjacent land being obstructed by any irrigation work.

(Sections 5, 6, 7 and 8 to apply to both old and new works.)

CHAPTER III.

OF WATER COURSES

9. Any person desiring the construction of a water-course may apply in writing to the Irrigation Officer requesting him to construct the water-course, and to do all things necessary for such construction at the cost of the applicant.

10. If the Irrigation Officer considers that the construction of such water-course is expedient, he may call upon the applicant to make such deposit as he considers necessary to cover the cost of the preliminary proceedings and the amount of the compensation likely to become payable and also to give an undertaking that he will pay the full cost of the acquisition and either construct the water-course himself or pay up before-hand the estimated

cost of its construction by Government and failing which, the deposit shall be liable to be forfeited at the discretion of the Deputy Commissioner. Upon such deposit being made, the Irrigation Officer shall cause enquiry to be made into the most suitable alignment for the said water-course and shall cause to be marked out the land which, in his opinion, it will be necessary to occupy for the construction thereof and shall forthwith publish a notice in every village through which the water-course is proposed to be taken that so much of such land as belongs to such village has been so marked out, and shall send a copy of such notice to the Deputy Commissioner of every District in which such land is situate for publication on such land.

The said notice shall also call upon any person who wishes to receive a supply of water through such water-course to make his application in that respect to the Irrigation Officer within thirty days of the publication of such notice. If any such applicant appears and his application is admitted, he shall be liable to pay his share in the construction of such water-course, and in the cost of acquiring the land for the same.

11. Within thirty days from the publication of a notice under Section 10, clause (1), any person likely to be affected by the construction of the proposed water-course or interested in the land to be occupied by such water-course, may apply to the Deputy Commissioner of the District by petition stating his objection to the proposed construction. The Deputy Commissioner or other Officer authorised by him, not lower in rank than an Amildar or Deputy Amildar, shall enquire into the validity of the objection after giving previous notice to the Irrigation Officer of the time and place at which such enquiry will be held.

Where the proposed water-course will pass through more Districts than one, the Deputy Commissioner of the District in which the head of the proposed water-course will be situated shall be the Deputy Commissioner of the District for the purposes of this section. The Deputy Commissioner shall record in writing the orders passed by him on the result of the enquiry by himself or other officer authorised by him as above and the grounds thereof.

12. If no objection is made or the objection, if any, is disallowed, the Deputy Commissioner of the District shall inform the Irrigation Officer of the same and proceed to acquire the land required for the water-course under the provisions of the Land Acquisition Regulation either by himself or through an Assistant Commissioner specially deputed by him for the purpose as if a declaration had been issued by the Government for the acquisition thereof under Section 6 of that Regulation and as if the Government had thereupon directed the Deputy Commissioner to take order for the acquisition of such land under Section 7 of the said Regulation.

If the Deputy Commissioner considers any objection to be valid, he shall inform the Irrigation Officer accordingly, and the latter may, if he sees fit, alter the alignment of the proposed water-course and the Deputy Commissioner shall, after notice to the persons likely to be affected by the alteration, decide whether or not such water-course shall be constructed.

13. Where the lands to be acquired are situate in different Districts, the acquisition shall be made by the Deputy Commissioners of the several Districts in which the lands may lie or by the Assistant Commissioners specially deputed by them for the purpose.

14. When the land has been acquired, the Irrigation Officer shall either permit the applicant to construct the said water-course, or shall himself construct it. Provided, that in either case the work shall not be commenced until the applicant or other person concerned has paid the full cost of the acquisition and also given an undertaking, to the satisfaction of the Deputy Commissioner, to pay any additional amount that may become payable on reference to the Civil Court and provided further that when the water-course is to be constructed by the Irrigation Officer the estimated cost of the construction shall also be paid by the parties concerned before the work is started and an undertaking given to meet any excess of expenditure that may be actually incurred over the construction within a period of six months of the service of notice on him in this respect.

If any compensation or expenses due under this section shall not be paid, in accordance with any demand, it shall be recoverable as an arrear of land revenue.

15. When any applicant is, under the last preceding section, permitted to construct a water-course, the following rules and conditions shall be binding on him and his representatives in interest:—

First.—All works necessary for the passage, across such water-course, of water-courses existing previous to its construction and of the drainage intercepted by it, and for affording proper communications across it for the convenience of the occupants of neighbouring lands, shall be constructed by the applicant and be maintained by him to the satisfaction of the Irrigation Officer.

Second.—Land acquired for the purpose of constructing a water-course under the provisions of Section 13 shall be used only for such purpose.

Third.—The proposed water-course shall be completed to the satisfaction of the Irrigation Officer within one year after the applicant has been given permission to construct it. Provided that the Irrigation Officer may, in his discretion, extend this period.

If any of the rules and conditions prescribed by this section are not complied with, the right of the applicant, or of his representative in interest, to receive a supply of water through such water-course may be put an end to by the Deputy Commissioner and in that case the applicant shall have no claim on the land acquired for the water-course which will be entirely at the disposal of the Deputy Commissioner who may either restore it to the original occupant or dispose of it in any other manner he considers proper.

16. The procedure provided in Sections 9 to 15, shall apply to any application for the extension, improvement or alteration of a water-course.

17. The procedure prescribed in Section 12 shall be adopted as far as may be for the acquisition of the lands required for the purpose where the construction of a water-

course is undertaken at Government cost in the interest of the expansion of irrigation.

18. Any person desiring to receive a supply of water through an existing water-course may apply to the Irrigation Officer for a supply through such water-course. If it appears to the Irrigation Officer expedient that such supply should be given and that it should be conveyed through such water-course, he shall serve notice on the owners or occupiers of the land supplied with water from such water-course requiring them to show cause, on a day not less than 15 days from the service of such notice, why the said supply should not be so conveyed, and after making enquiry, the Irrigation Officer shall make an order determining whether, and on what conditions, the said supply shall be conveyed through such water-course, and such order shall be binding on applicant and on such owners or occupiers.

An appeal shall lie from any order made by the Irrigation Officer under this section to the Deputy Commissioner of the District, whose decision shall be final.

The applicant shall not be entitled to a supply of water by reason of any order made under this section until he has complied with the conditions imposed by the Irrigation Officer and until he has paid the expense of any alteration of such water-course necessary in order to his being supplied through it.

Such applicant shall also be liable for his share of the cost of the maintenance of such water-course so long as he uses it.

19. No water-course constructed, extended or improved under the provisions of Sections 15, 16 and 18 may be altered without the consent of the Irrigation Officer.

20. Every owner or occupier of land which receives a supply of water from a water-course shall be bound—

- (a) to maintain such water-course in a fit state of repair;
- (b) to allow the use of it to any person entitled by reason of an order passed under Section 18.

21. If any owner or occupier of land which receives a supply of water from a water-course fails to fulfil any obligation imposed on him by Section 20, any Irrigation Officer duly empowered in this behalf may require him by notice to execute the necessary work or repair within a period to be prescribed in such notice of not less than 15 days and in the case of failure, may execute the same on his behalf, and all expenses incurred in the execution of such work or repair shall be recoverable from him as an arrear of land revenue.

(The Amildar to be notified to be an Irrigation Officer under this Section.)

CHAPTER IV.

APPLICATION FOR SUPPLY.

22. Every person desiring to have a supply of water from an irrigation work specially notified under this Chapter shall submit a written application to that effect to an irrigation officer duly empowered to receive such applications in such form as shall from time to time be prescribed by Government in this behalf. If the application be for

the supply of water for irrigation, the supply may be granted for such period and on such terms as may be prescribed by rules framed in this behalf by Government.

If the application be for a supply of water to be used for purposes other than those of irrigation, the irrigation officer may, with the sanction of Government, give permission for water to be taken for such purposes under such special conditions and restrictions as to limitation, control and measurement of the supply as he shall be empowered by Government to impose in each case.

23. All rights to the supply from an irrigation work of water to any land, building or other immovable property shall be transferable therewith, and shall be presumed to have been so transferred whenever a transfer of such land, building or other immovable property takes place.

CHAPTER V.

WATER RATES SUPPLY RATES.

24. Such rates shall be leviable for water from irrigation works supplied for purposes of irrigation, or for any other purpose, as shall, from time to time, be determined by the Government.

If, owing to the construction of a new irrigation work or to the improvement or extension of an existing irrigation work, the amount or duration of any water-supply in respect of which either no revenue or a fixed amount of revenue has hitherto been paid to Government, is increased, rates shall be leviable under this section in respect of the increased water-supply only; provided that in respect of lands on which assessment at wet or garden rates is being already recovered, notice shall be given to the occupants of such lands and their objections, if any, shall be heard before any additional rates are levied on such lands.

OCCASIONAL RATES.

25. If water supplied through a water-course be used in an unauthorised manner, and if the person by whose act or neglect such use has occurred cannot be identified, the person or all the persons on whose land such water has flowed, if such land has derived benefit therefrom, shall be liable, or jointly liable as the case may be, for the charges which shall be made for such use under the rules prescribed by the Government under Section 60.

26. All questions arising under the preceding section, shall, subject to the provisions of Section 57, be decided by an Irrigation Officer duly empowered in this behalf.

27. All charges for the unauthorised use, may be recovered, as water rates, in addition to any penalties incurred on account of such use or waste.

PERCOLATION AND LEAKAGE RATES.

28. If it shall appear to an Irrigation Officer duly empowered to enforce the provisions of this section that any cultivated land within 200 yards of any irrigation work receives by percolation or leakage from such a work an advantage equivalent to that which would be given by a direct supply of water from an irrigation work for irrigation, or that any cultivated land, wherever situate, derived by surface flow, or by means of a well sunk within 200

yards of any irrigation work after the admission of water into such irrigation work, a supply of water which has percolated or leaked from such irrigation work, he may charge on such land a water-rate not exceeding that which would ordinarily have been charged for a similar direct supply to land, similarly cultivated; for the purposes of this Regulation, land charged under this section shall be deemed to be land irrigated from an irrigation work.

RECOVERY OF WATER-RATES AND OTHER DUES IN ARREARS.

29. Every water-rate leviable under this Regulation shall be payable on such dates to such officers as shall from time to time be determined under the orders of the Government.

Any such rate, or instalment of the same which is not paid on the day it becomes due, and any sum due to Government or to any Irrigation Officer, whether on behalf of Government or of any other person under Chapter III which is not paid when demanded, shall be recoverable according to the law and under the rules for the time being in force for the recovery of arrears of land revenue.

CHAPTER VI.

OF THE CONSTRUCTION AND MAINTENANCE OF IRRIGATION WORKS ON SPECIAL TERMS.

30. Whenever it appears to the Government that the construction, improvement or maintenance of an irrigation work in any local area is not likely to be remunerative unless on the lands irrigable by such work payment of water cess at a certain specified rate is guaranteed, the Government may direct the Deputy Commissioner or any other person to make enquiry whether it is desirable to undertake the construction, improvement or maintenance of the work.

31. The Deputy Commissioner or other person appointed to make the enquiry shall publish a notice in the village or villages concerned specifying the place at which and the date (which shall not be earlier than thirty days after the date of such publication) on which the enquiry will be held. The notice shall set forth the general scheme of the proposed construction, improvement or maintenance, an estimate of the capital or recurring expenditure involved, the area which will be benefited by the scheme (hereinafter called the benefited area) and the rate at which it is proposed to levy water cess in respect of the land within the benefited area, and shall invite the holders of such lands to submit any objections or suggestions that they may desire to make on or before a date prescribed in the notice and to produce evidence if any in support of such objections or suggestions on the date appointed for the holding of the enquiry.

32. Every holder of land within the benefited area who fails, within the period allowed by the notice, to submit any objection or suggestion in the manner prescribed shall be deemed to have given his consent to the proposed scheme.

33. If the Deputy Commissioner or other person appointed to make the enquiry after considering any objec-

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tions or suggestions duly submitted and evidence, if any, produced and taking such further evidence as he thinks necessary, finds that the holders of at least two-thirds of the land within the benefited area consent to such construction, improvement or maintenance and to the payment of the proposed water cess, he shall embody his proceedings in a report to be submitted to the Government and shall also forward a statement of objections and suggestions presented to him with any remarks that he may desire to make in respect of them.

34. Upon receipt of the report referred to in the previous section, the Government may, after such further enquiry, if any, as may appear to them necessary, either abandon the scheme or proceed with it in its original form or with such modifications as they may consider necessary, provided that where the modifications involve a substantial increase in the benefited area or in the water cess to be imposed, the provisions of Sections 31 to 33 shall apply to the altered scheme.

35. (i) The scheme as finally approved by the Government shall be published in the *Mysore Gazette* and it shall embody the following particulars:—

(a) a specification of the work which it is proposed to construct, improve or maintain and an estimate of the capital or recurring expenditure involved thereby;

(b) the estimated time required for the completion of the work;

(c) a description of the benefited area;

(d) the rate at which water cess will be imposed on the land in the benefited area, such rate being liable to periodical revision at intervals of not less than ten years each; and

(e) the fact that the consent of the holders of such land has been obtained as provided in this chapter.

(ii) The publication under sub-section (1) of a scheme as approved shall be conclusive proof that any consent recorded therein has been duly obtained and that the scheme will benefit the area specified therein.

36. The Government may from time to time modify any approved scheme notified under section 31 or substitute another scheme in its stead and the provisions of this Regulation applicable to a scheme notified under section 31 shall thereafter be applicable to any scheme so modified or substituted.

Provided that any consent, publication or other thing required by this Regulation in respect of a scheme shall be necessary also in respect of a new scheme for an existing one.

37. After the scheme has been carried out the Deputy Commissioner may, subject to such rules as may be prescribed by the Government, levy from the holders of land within the benefited area, water cess at the rate prescribed in section 31.

Provided that the Deputy Commissioner may exempt from charge any land in the benefited area on the ground that it is unable to derive any benefit from the irrigation work.

CHAPTER VII.
ON OBTAINING LABOUR AND MATERIALS ON EMERGENCIES

38. (1) Whenever it appears to an Irrigation Officer, or in his absence the Amildar of the Taluk that unless

some work or repair is immediately executed such serious damage will happen to any irrigation or drainage work as to cause sudden and extensive public injury, or that, unless some clearance of an irrigation or drainage work which is necessary in order to maintain the established course of irrigation or drainage is immediately executed serious public loss will occur,

and that the labourers necessary for the proper execution of such repair, clearance or work cannot be obtained in the ordinary manner within the time that can be allowed for the execution of the same so as to prevent such injury or loss,

it shall be lawful for such officer to require the Patel or Patels of the village or villages in the vicinity to call upon all or any of the able-bodied male persons who reside or hold land in the vicinity of the locality where such repair, clearance or work has to be executed to assist in the execution of such repair, clearance or work, by labouring thereat as such Officer or any person authorised by him in this behalf may direct.

(2) Such Officer or any person authorised by him in this behalf may also enter into and upon any immovable property in the neighbourhood of any such irrigation or drainage work and take possession of, appropriate and remove any trees or bamboos whether standing or not and any timber, mats, ropes, straw, earth, stones or other materials found in or upon such property and use the same for the purposes of such repair, clearance or work.

(3) Every person authorised as mentioned in this section shall be deemed to be a public servant within the meaning of the Indian Penal Code.

(4) Any adult male person being duly called upon by the head of his village to labour as aforesaid who shall refuse or neglect to comply with such call without any lawful excuse shall on conviction before a Magistrate be punished with a fine which may extend to one hundred rupees or with simple imprisonment which may extend to one month or with both.

39. All persons labouring or detained for the purpose of labouring by day in compliance with a requisition made under section 38 or whose materials may be taken under that section shall, as soon as may be reasonably practicable be paid by the Irrigation Officer for their labour and detention or for such materials at the rates for the time being prevailing in the neighbourhood. If the persons are required to work or are detained at night they shall be paid at double such rates.

40. Whenever as a result of the removal under section 38 of any trees, bamboos, earth, stone or other materials, any damage over and above the price payable for such materials results directly to any person, the Irrigation Officer shall pay to such person a reasonable amount of compensation for such damage.

41. Any dispute arising between the Irrigation Officer and any person as to the amount to be paid to such person under section 39 or section 40 may be referred by either party to the Deputy Commissioner whose decision thereon shall be final.

CHAPTER VIII.
OF CUSTOMARY LABOUR.

42. (1) The provisions of this Chapter apply to following irrigation and drainage works:—

- (a) All river and spring channels;
- (b) All tanks;
- (c) All supply and escape channels connected with tanks; and
- (d) Any other irrigation or drainage work in respect of which the Government may by notification declare that it is customary to perform unpaid labour.

(2) It shall be lawful for the Government by an order to declare, in respect of all or any of the aforesaid works in any locality, that the customary labour referred to in Section 43 need not be performed either wholly or in part. Such order may at any time be cancelled or modified by the Government.

43. Every occupier of land irrigated or drained by any irrigation or drainage work as well as inhabitants of the village or villages and all others who derive any benefit, directly or indirectly, from the work shall perform in respect of such work without payment the following customary labour:—

- (a) Filling up gullies, cracks, ruts and holes;
- (b) Removing prickly-pear, wild croton, bushes and other rank growth or pernicious weed;
- (c) Clearing away such underwood as may be considered by the irrigation officer to be injurious;
- (d) Clearing sand or silt from sluices and channels;
- (e) Maintaining the bund to the standard level and with the slopes specified;
- (f) Keeping in order the supply channels of tanks;
- (g) Watching the bunds of all tanks during rainy weather, turning the parts acted on by the waves, helping in opening and closing the sluice, and generally performing minor duties of this nature in order to prevent breaches and other accidents;
- (h) Any other work which the Government may by notification declare to be customary labour in respect of any specified locality.

Explanation.—All land forming part of the registered or recognized Achkat of an irrigation work shall be deemed to be land irrigated by such work within the meaning of this section.

44. It shall be the duty of the Patel of every village to see that the customary labour in respect of any irrigation or drainage work situated in the village or villages in his charge is duly performed, and he will be held primarily responsible for keeping the work in an efficient condition.

45. If such work is neglected, the Patel shall report the matter to the irrigation officer who shall call upon the Patel or Patels of the Village or Villages in which the persons bound to do the work ordinarily reside or the land occupied by them is situate to require such persons by beat of tom tom to carry out the work by a certain date. If the requisition be not complied with the Irrigation Officer may cause the work to be done by hired labour.

46. If during the execution of customary labour any person who is bound to contribute labour towards such work neglects or refuses to do so, the Patel may employ hired labourers for the performance of the labour which such person is bound to contribute.

47. The labour which each occupier of land is bound to contribute towards the performance of customary labour

and the proportionate share of labour for each village where an irrigation or drainage work serves more than one village shall be determined in accordance with rules framed by the Government.

48. Whenever any person who is bound to contribute labour towards the performance of customary labour neglects or refuses without sufficient and reasonable cause so to contribute, the Irrigation Officer may levy from such person a sum not exceeding 4 times the value of the labour which such person is bound to contribute.

Against the order of the Irrigation Officer, an appeal shall lie, within 30 days of the date of the order, to the Deputy Commissioner, whose decision shall be final.

49. No Civil Court shall take cognizance of any suit filed in respect of any matter dealt with in this chapter.

CHAPTER IX.

PENALTIES.

50. Whoever voluntarily and without proper authority damages, alters, enlarges or obstructs any irrigation or drainage work;

Interferes with, increases or diminishes the supply of water in, or the flow of water from, through, over or under any irrigation or drainage work or does any act which renders such irrigation or drainage work less useful for the purpose for which it was constructed;

Opens, shuts or obstructs, or attempts to open, shut or obstruct, any sluice in any irrigation work;

Corrupts, or fouls the water of any irrigation work so as to render it unfit for the purpose for which it is ordinarily used;

Destroys, defaces or moves any land or level mark or water gauge fixed by the authority of a public servant;

Destroys, tampers with, or removes, any apparatus, or part of any apparatus, for controlling, regulating or measuring the flow of water in any irrigation work;

Causes animals or vehicles to pass, in or across any of the works, banks or channels of an irrigation work contrary to rules made under section 60 after he has been desired to desist therefrom;

Causes or permits animals to graze or be tethered upon the bank or border of any irrigation or drainage work after such grazing or tethering has been prohibited by the Deputy Commissioner;

Removes or injures any tree, bush, grass or other vegetation intended for the protection of any irrigation or drainage work;

Puts up a dam across or otherwise obstructs the free course of water the right to which vests in Government under Section 4 (a);

Violates any rule made under section 60 for breach whereof the Government in such rules, direct that a penalty may be incurred; and,

Whoever being responsible for the maintenance of a water-course, or using a water-course, neglects to take proper precautions for the prevention of waste of the water thereof, or interferes with the authorised distribution of the water therefrom, or uses such water in an unauthorised manner or prevents or interferes with the

lawful use of such water-course by any person authorised to use the same under section 18;

shall be deemed to commit an offence under this Regulation, and shall on conviction before a Magistrate, be punishable for each such offence with fine which may extend to fifty rupees, or with imprisonment for a term which may extend to one month, or with both, provided that where the person has been convicted for mischief under the Indian Penal Code in respect of the same act, he will not be liable to conviction again under this Regulation.

51. Any person in charge of or employed upon any irrigation work may remove from the lands or building belonging thereto any person who within his view:—

- (i) Willfully damages, obstructs, or fouls any irrigation work, or
- (ii) without proper authority, interferes with the supply or flow of water in or from any irrigation work or in any river or stream so as to endanger, damage, make dangerous or render less useful any irrigation work,

and may, if the name and address of the person be unknown or if he refuses to give his name or address or gives a name or address which he has reason to believe to be false, arrest him without a warrant and take him forthwith before a Magistrate or to the nearest Police Station to be dealt with according to law.

52. If any damage, alteration, enlargement or obstruction to any irrigation or drainage work is caused without due authority, and if the person causing such damage, alteration, enlargement or obstruction cannot, after such enquiry as the Deputy Commissioner may deem sufficient, be ascertained or identified, the Deputy Commissioner may, after notice to the parties concerned, and hearing all representations to the contrary, or after expiry of such time for the submission of representations as he may deem sufficient, recover from the occupiers of all lands which have in his opinion benefited by such damage, alteration, enlargement or obstruction, the cost of repairing such damage or of removing such alteration, enlargement or obstruction; but the amount to be so recovered from any person shall not exceed the value of the benefit derived by him.

Any sum recoverable under this section may be recovered as an arrear of land revenue.

53. Whenever any Magistrate imposes a fine upon any person for an offence under this Regulation, he may direct that the whole or any part of such fine may be paid by way of compensation to the person injured by such offence.

54. When any person is convicted of an offence under section 50 or of the offence of mischief under the Indian Penal Code in relation to any irrigation or drainage work, the convicting Magistrate may order that he shall remove the obstruction or repair the damage or replace or repair the land mark, level mark, water gauge or apparatus in respect of which conviction has taken place within a period to be fixed in such order. If such person neglects or refuses to obey such order within the period so fixed, any irrigation officer duly empowered in this behalf may carry out the work in accordance with such order and the cost thereof shall be recoverable from such person by the Deputy Commissioner.

55. Nothing herein contained shall prevent any person from being prosecuted under any other law for any act or omission made punishable by this Regulation. Provided that no person shall be punished twice in respect of one and the same act or omission.

56. Whenever any person is fined for an offence under this Regulation the Court which imposes such fine, or which confirms in appeal or revision a sentence of which such fine forms part, may direct that the whole or any part of such fine may be paid by way of award to any person who gave information leading to the detection of such offence or to the conviction of the offender.

If the fine be awarded by a Court whose decision is subject to appeal or revision, the amount awarded shall not be paid until the period prescribed for presentation of the appeal has elapsed or if an appeal be presented, till after the decision of the appeal.

CHAPTER X.

MISCELLANEOUS.

57. Every order passed by an Irrigation Officer under Sections, 10, 14 and 22, shall be appealable to the Deputy Commissioner. Provided that the appeal be presented within one month from the date on which the order appealed against was communicated to the appellant.

All orders and proceedings of a Deputy Commissioner under this Regulation shall be subject to the supervision and control of Government.

58. Any Officer empowered under this Regulation to conduct any enquiry, may exercise all such powers connected with the summoning and examining of witnesses and the production of documents as are conferred on Civil Courts by the Code of Civil Procedure, and every such enquiry shall be deemed a judicial proceeding.

59. Service of any notice under this Regulation shall be made by delivering or tendering a copy thereof signed by the Officer therein mentioned. Whenever it may be practicable, the service of the notice shall be made on the person therein named. When such person cannot be found, the service may be made on any adult male member of his family residing with him, and, if no such adult male member can be found, the notice may be served by fixing the copy on the outer door of the house in which the person therein named ordinarily dwells or carries on business; and, if such person has no ordinary place of residence within the district, service of any notice may be made by sending copy of such notice by post in a registered cover addressed to such person at his usual place of residence.

60. Government may, from time to time, make rules not inconsistent with this Regulation to regulate the following matters:

- (a) the proceedings of any officer who, under any provision of this Regulation, is required or empowered to take action in any matter;
- (b) the cases in which, the officers to whom and the conditions subject to which order and decisions given under any provision of this Regulation and not expressly provided for as regards appeal, shall be appealable;

(c) the person by whom, the time, place or manner at or in which, anything for the doing of which provision is made in this Regulation shall be done;

(d) the amount of any charge to be made under this Regulation;

(e) the manner of framing and revising record of rights and generally to carry out the provisions of this Regulation;

Government may, from time to time, alter or cancel any rules so made;

Such rules, alterations and cancellations shall be published in the official Gazette and shall thereupon have the force of law.

61. Nothing in this Regulation shall, saving of Municipal Water Works, be deemed to apply to any canal, channel, reservoir, lake or other collection of water vesting in any Municipality.

Statement of objects and reasons.

The construction of large irrigation works like the Vanivilasa Sagara and Krishna Sagara Reservoirs has rendered legislative enactment necessary for the efficient management of these works. Economy in the use and distribution of water in the case of works on which Government have spent many lakhs of rupees is found absolutely necessary both in the interests of the cultivators and of the Government. In the interests of the cultivating community at large, certain provisions in regard to the regulation and distribution of water supply, prevention of wastage, use of water for purposes other than cultivation, etc., are found necessary. Under the existing rules, the rights and liabilities of owners of water courses are not clearly defined and there are no facilities for the rapid construction of water courses. The channel offence rules, issued more than 45 years ago have been found in practice unsuitable and unworkable and the existing criminal law does not sufficiently meet all cases. Damage to works in which large sums of money have been spent could not be punished under the ordinary law and special provisions are found absolutely necessary. Hence the bill based on the Bombay Irrigation Act is introduced with modifications to suit local conditions.

The Bill declares the right of Government to all water flowing or standing which is not the property of private individuals. Chapters I, II, IV, V, IX and X of the Bill are framed on the model of the Bombay Irrigation Act 1879.

Chapter III treats of water courses. Clauses 10 to 17 prescribe the procedure to be followed in the construction of water courses on the application made to an Irrigation Officer for such purposes, while clause 18 authorises the Irrigation Officer to construct water courses on his own initiative. Chapter IV treats of supply of water. Chapter V deals with water rates. The provisions of this chapter are practically those contained in section 53 of the Land Revenue Code in an enlarged form. Clause 25 empowers Government to levy occasional water rates for the unauthorised use of water from the persons or all the persons on whose lands such water has flowed and benefited the lands, if the person by whose act or neglect such use has occurred, could not be identified. Clause 29

authorises arrears of water rates to be recovered as arrears of land revenue. Chapter 7 deals with compulsory labour on emergencies.

Chapter 8 deals with customary labour that may be required to be performed by the occupiers of lands irrigated by an irrigation or drainage work. It is based on Chapter 10 of the Madras Irrigation Bill and incorporates the Mysore Tank Maintenance Rules of 1873. It will be enforced in respect of unrestored, as well as, restored tanks.

Chapter 9 deals with penalties. Clause 5 empowers the Court which imposes a fine for an offence under this Regulation to pay any part of the fine so levied as an award to the informant.

Chapter 10 deals with miscellaneous matters. Clause 57 deals with appeals, 58 and 59 with power to summon witnesses and service of notices and 60 power of Government to frame rules.